

## **REMARKS**

Applicant appreciates the thorough review of the present application that is reflected in the Office Actions mailed September 23, 2005 and February 24, 2006. Applicant also appreciates the indication that Claim 29 is in condition for allowance. Applicant has amended the claims in order to place the present application in condition for allowance, which is respectfully requested.

### **I. The Claim Amendments**

Applicant has amended independent Claims 1, 16 and 28 and dependent Claim 27 to address the rejections under 35 U.S.C. § 112. Applicant has also amended independent Claim 28 to include the recitations of Claim 30, such that Claim 28 is now directed to subject matter that was indicated to be allowable in the Final Office Action. Applicant has also rewritten Claim 29 into independent form, placing Claim 29 in condition for allowance. Applicant has further amended independent Claims 1 and 16 to further distinguish the claims over the cited prior art. Finally, Applicant has cancelled Claims 3, 5, 14, 24 and 27, and has added new Claims 31-35.

### **II. The Rejections Under 35 U.S.C. § 112**

Claims 1-28 stand rejected under 35 U.S.C. § 112, ¶ 2 as being indefinite based on the term "and/or" included in each of the independent claims. Applicant has amended each of the independent claims to delete the clause in the preamble that included the term "and/or" in order to overcome the rejection under Section 112.

Claim 27 also stands rejected as being indefinite because Claim 16 (from which Claim 27 indirectly depends) recites that the inner wall extends "substantially parallel" to the outer wall while Claim 27 recites that the "inner wall and the outer wall are angled at least slightly." Applicant has cancelled Claim 27, thereby obviating this rejection.

### **IV. The Rejections Under 35 U.S.C. §§ 102 and 103**

#### **A. Independent Claim 1**

Independent Claim 1 stands rejected as anticipated under 35 U.S.C. § 102 by (1) U.S. Patent No. 6,386,694 to Marsh et al. ("Marsh") and (2) U.S. Patent No. 5,947,037 to Hornberger et al. ("Hornberger").

With respect to the rejection based on Marsh, independent Claim 1 has been amended to recite that "the outer wall [is] spaced apart from, and substantially parallel to, the inner wall." This recitation of Claim 1 is not taught or suggested by Marsh, as the identified outer wall 31 of Marsh is not parallel to the identified inner wall 40 of Marsh, and as the device of Marsh would not work for its intended purpose if reconfigured to have wall 31 spaced apart from, and parallel to, wall 40.

With respect to the rejection based on Hornberger, Claim 1 has further been amended to recite that the inner wall and the outer wall are each generally planar walls. The identified inner and outer walls of Hornberger do not comprise such planar walls. Moreover, Claim 1 recites that "the plane defined by the side wall and the plane defined by the outer wall intersect at an acute angle." Once again, Hornberger does not teach or disclose this recitation of Claim 1. Thus, the rejection based on Hornberger should be withdrawn for each of these reasons. Moreover, if Hornberger were modified to have generally planar inner and outer walls, then the plane defined by the identified side wall would not intersect the plane defined by such an outer wall at an acute angle. Accordingly, it is clear that even were Hornberger modified, it would not teach or suggest the protective device of Claim 1.

Accordingly, the rejections of Claim 1 should be withdrawn for at least the above reasons.

## B. Independent Claim 16

Independent Claim 16 stands rejected as anticipated under 35 U.S.C. § 102 by (1) Hornberger and (2) U.S. Patent No. 6,516,730 to Mason ("Mason").

With respect to the rejection of Claim 16 based on Hornberger, Applicant has amended Claim 16 to recite that "the inner wall is a substantially planar wall" and that "the outer wall is a substantially planar wall." As discussed above, Hornberger does not disclose or suggest such inner and outer walls. Applicant has also amended Claim 16 to recite that "a portion of the inner wall adjacent the side wall includes a cutout portion that forms an opening into a cavity defined by the inner wall, the outer wall and the side wall", which further clearly distinguishes Claim 16 over Hornberger.

With respect to the rejection of Claim 16 as anticipated by Mason, Applicant notes that the rejection, which is based on FIGS. 2-3 of Mason, identifies element 116C as comprising the "top member" of Claim 16, element 116B as comprising the "inner wall" of

Claim 16, element **116A** as comprising the "outer wall" of Claim 16, and element **118A** as comprising the "sidewall" of Claim 16. Applicant respectfully traverses the rejection of Claim 16 as anticipated by Mason for the following reasons.

Claim 16 recites, among other things, that the corner protector includes a "side wall connecting the outer wall to the inner wall." As is apparent from FIG. 5 of Mason, the wall **118A** of the device of Mason does not connect alleged outer wall (wall **116A**) to the alleged inner wall (wall **116B**). Accordingly, Mason does not anticipate Claim 16. At paragraph 22 of the Final Office Action, the Examiner takes the position "that the upper portion of the side wall [of Mason] does indeed connect the outer wall to the inner wall, such as shown in Fig. 2." However, the portion of the device of Mason that the Examiner is referring to is not the side wall **118A**, but the ceiling piece **116C**. The Final Office Action already relies on the ceiling piece **116C** as comprising the "top member" of Claim 16, and the ceiling piece **116C** (or the top **112**, for that matter) clearly are not "sidewalls." Accordingly, the rejection of Claim 16 as anticipated by Mason should be withdrawn for this reason.

Claim 16 also recites that "a portion of the inner wall adjacent the side wall includes a cutout portion that forms an opening into a cavity defined by the inner wall, the outer wall and the side wall." The inner wall **116B** of Mason, however, does not include any such cutout portion, but instead extends laterally the exact same distance as the "outer wall" **116A**, as is clearly shown in FIG. 5 of Mason. Accordingly, Mason's failure to teach or disclose an inner wall having "a cutout portion that forms an opening into a cavity" provides a separate and independent basis for withdrawal of the rejection of Claim 16 as anticipated by Mason.

### C. Independent Claims 28 and 29

Independent Claim 28 stands rejected as anticipated under 35 U.S.C. § 102 by U.S. Patent No. 6,305,599 to Tsubaki et al. As noted above, Applicant has amended Claim 28 to include the recitation of Claim 30, which the Final Office Action acknowledged was patentable over the cited art. Accordingly, the rejection of Claim 28 should be withdrawn.

Claim 29 was indicated as directed to allowable subject matter in the Final Office Action, but objected to as depending from a rejected base claim. Applicant has rewritten Claim 29 into independent form to overcome the objection to Claim 29. Accordingly, Claim 29 is also in condition for allowance, as acknowledged in the Advisory Action.

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Filed: June 24, 2003  
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#### D. The Dependent Claims

Claims 2-15, 17-23, 24-27 and 31-36 each depend from one of Claims 1, 16 or 28. Accordingly, the rejections of these claims should be withdrawn for the same reasons, discussed above, that the rejections of the claims from which they depend should be withdrawn. Additionally, Applicant respectfully submits that at least the subject matter of Claims 6, 8, 10, 13-15, 17, 22 and 26-27 is not taught or suggested in any of the references cited as teaching the recitations of these claims. Applicant has also added new dependent Claims 31-35, which Applicant also respectfully submits are patentable over the cited art.

#### V. Conclusion

Inasmuch as the points and concerns raised in the Final Office Action have been addressed in full, Applicant respectfully requests that this application is in condition to pass to issue, which action is respectfully requested. Should the Examiner have any matters of outstanding resolution, he is encouraged to telephone the undersigned at 919-854-1400 for expeditious handling.

Respectfully submitted,

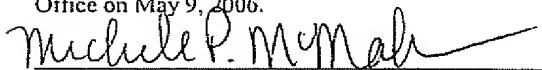


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I hereby certify that this correspondence is being transmitted electronically to the U.S. Patent and Trademark Office on May 9, 2006.



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